IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.6071 OF 2007.
IN
FIRST APPEAL NO. 2745 OF 2007.

Yogendra Taparia s/o.Laxminarayan. ... Applicant.
Versus.
The Brihanmumbai Electric Supply
and Transport Undertaking. ... Respondent.

Shri G.M.Ashtaq i/by Shri A.R.Tiwari for the Applicant.

Shri A.B.Katkar with Shri A.A.Sidhique i/by
M/s.M.V.Kini & Co. for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 5th December, 2007.

P.C.:

1. Rule. The Advocate for the Respondent waives service. Taken up for hearing forthwith.

2. The suit filed by the Applicant/Plaintiff has been dismissed. The Applicant/Plaintiff is seeking injunction restraining the Brihanmumbai Electric Supply and Transport Undertaking from disconnecting the electricity supply to the business premises of the Applicant. The demand raised by the Respondent was in the sum of Rs.8 lakhs out of which a sum of Rs.4 lakhs has been deposited by the Applicant during the pendency of the suit. The said amount is deposited with the trial Court.

3. The Appellant/Applicant has tendered on record his undertaking in which he has stated that he will deposit a further sum of Rs.4 lakhs with the trial Court

within a period of two months from today. The undertaking is taken on record and marked "X" for identification. The undertaking is accepted.

4. If the said undertaking is complied with, the entire amount of demand will be secured. Therefore, the Applicant is entitled to the interim relief subject to various conditions.

5. Hence the Application is disposed of by the following order:

i) There will be interim relief in terms of prayer clause (a) subject to condition of the Applicant depositing with the trial Court a sum of Rs.4 lakhs within a period of two months from today and subject to further condition of the Applicant regularly and punctually paying the electricity charges as per the bills raised by the Respondent.

ii) If the sum of Rs.4 lakhs is not deposited by the Applicant with the trial Court within the stipulated period of two months, without prejudice to the other remedies available to the Respondent, interim order will stand vacated without further reference to the Court and on expiry of the said period of two months, it will

be open for the Respondent to disconnect the electricity supply.

iii) In case the Applicant commits default in payment of regular bills, it will be open for the Respondent to apply for vacating the interim relief.

iv) The trial Court will permit the Respondent to withdraw the sum of Rs.4 lakhs earlier deposited by the Applicant and further sum of Rs.4 lakhs which will be deposited by the Applicant in terms of this order. It is obvious that the withdrawal made by the Respondent of the sum of Rs.8 lakhs will be subject to final outcome of the Appeal and in the event the Applicant succeeds in the Appeal, the Respondent will have to bring back the amount with appropriate rate of interest as may be directed by this Court.

v) The pending criminal proceedings shall be decided uninfluenced by this order as this order has been passed by way of an interim arrangement without prejudice to the rights and contentions of the parties in the pending proceedings.

vi) There will be no order as to costs.

Judge.